

Application Control Number: 10 042,025
Art Unit: 2818

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Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Group I, ~~Claims 30-40~~, drawn to an apparatus of a conductive structure, classified in class 257, subclass 396.
- II. Group II, ~~Claims 41-43~~, drawn to a method of forming a conductive structure, classified in class 438, subclass 686.

The inventions are distinct, each from the other because of the following reasons:

1. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be practiced by another materially different apparatus or by hand (2) that the apparatus as claimed can be used to practice another and materially different process (MPEP § 806.05(e)). In the instant case unpatentability of the Group I invention would not necessarily imply unpatentability of the Group II invention, since the device of Group I invention could be made by a product different from those of the Group II invention such as a method of forming a metallization structure instead of forming a conductive structure as shown in claim 41.

However, the issues of process and apparatus claims are divergent. Furthermore, there may be some overlap in the searches of the two groups, but there is no reason to believe that the searches would be identical. Therefore, based on the additional work involved in searching and examination of the two inventions together, restriction of distinct inventions is clearly proper.

2. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traverse (37 CFR 1.143).
3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).
4. Any inquiry concerning this communication or earlier communication from the examiner should be direct to Phuc T. Dang whose telephone number (703) 305-1080. The examiner can normally be reached on Monday through Friday from 8:00am to

PATENT
Docket No. 150.00880197IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Derderian et al.) Group Art Unit: 2818
)
 Serial No.: 10/042,025) Examiner: Dang, P.
 Confirmation No.: 5745)
)
 Filed: 25 October 2001)
)
 For: METHODS FOR FORMING ROUGH RUTHENIUM-CONTAINING LAYERS
AND STRUCTURES/METHODS USING SAME

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
 Washington, D.C. 20231

Dear Sir:

In response to the Restriction Requirement mailed 11 September 2002, Applicants elect without traverse, Group I (claims 30-40), drawn to conductive structures. Applicants' Representatives reserve the right to pursue examination of the non-elected claims in continuation or divisional applications.

The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if there are any questions regarding this Response or if prosecution of this application may be assisted thereby.

CERTIFICATE UNDER 37 C.F.R. § 1.8:

The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 C.F.R. § 1.616 to the Patent and Trademark Office, addressed to Assistant Commissioner for Patents, Washington, D.C. 20231, on this 25 day of September, 2002, at 10:35 AM (Central Time).

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Respectfully submitted for
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25 Sept 2002
 Date